

AMENDED IN SENATE SEPTEMBER 11, 1997

AMENDED IN SENATE SEPTEMBER 2, 1997

AMENDED IN SENATE AUGUST 25, 1997

AMENDED IN SENATE JUNE 23, 1997

AMENDED IN ASSEMBLY MAY 1, 1997

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 208

Introduced by Assembly Member Migden

February 4, 1997

An act to amend Sections 44003, ~~44037.1, 44060, and 44081 of,~~
~~and to add Section 44024.5 to~~ 44021, 44037.1, 44060, 44081,
44091, and 44101 of, to add Section 44024.5 to, and to add and
repeal Section 44091.1 of, the Health and Safety Code, to
amend Section 6262 of the Revenue and Taxation Code, and
to repeal Section 4000.7 of the Vehicle Code, relating to air
pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 208, as amended, Migden. Vehicles: inspection and
maintenance: high polluter repair or removal.

(1) Existing law establishes a High Polluter Repair or
Removal Program administered by the Department of
Consumer Affairs and the State Air Resources Board for the
repair or removal of high-polluting motor vehicles. Existing

law establishes the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund, and requires money deposited in the account, including donations, grants, and payments that exempt a vehicle ~~from the requirement for a smog check~~ upon the 2nd renewal of the registration ~~from the requirement for a biennial smog check~~, to be available for purposes of the program. Existing law requires the department and the state board to seek federal funds and explore other funding sources for deposit in the account.

Existing law imposes a \$300 smog impact fee on certain vehicles previously registered outside the state and requires those revenues to be deposited in the General Fund.

This bill would *revise the specification of vehicles that are subject to that fee*, require those smog impact fee revenues, *on and after July 1, 1998*, to be *instead* deposited ~~instead~~ in the High Polluter Repair or Removal Account, *and specify the purposes for which money in the account may be used*. The bill would declare the intent of the Legislature to identify new funding sources for the program.

~~(2) Existing law limits the fee charged for a smog check certificate of compliance or noncompliance, waiver, or extension to \$7, except for adjustments to reflect the Consumer Price Index, which have increased the fee to \$8 pursuant to regulations adopted by the Bureau of Automotive Repair.~~

~~This~~

The bill would subject vehicles that are would be exempt from the biennial smog check certificate requirement because they are 4 or less model years old to an annual smog abatement fee of \$5 \$4 and increase that fee to \$6 for a specified period if the state is unable to impose or collect the smog impact fee, as specified. The bill would specify the disposition of those fee revenues.

The bill would authorize the department to conduct a pilot program to exempt certain vehicles from the biennial certificate requirement, and to establish that program permanently, as specified, and would impose related duties on the department, *the state board, and a specified review committee which the bill would designate as the Inspection and Maintenance Review Committee.*

~~The bill would require the department and the state board to report to the Legislature by January 1, 2003, on the smog check program, as specified.~~

~~(3)–~~

(2) Existing law requires the state board to adopt, by regulation, by June 30, 1997, a statewide program, to commence in 1998, to provide for emission reduction credits for retiring light-duty vehicles.

This bill would extend those dates to December 31, 1998, and 1999, respectively.

~~(4)–~~

(3) The bill would become operative only if both AB 57 and AB 1492 are enacted and take effect on or before January 1, 1998.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to
2 identify new funding sources for the High Polluter Repair
3 or Removal Account created by Section 44091 of the
4 Health and Safety Code to provide financial assistance to
5 motorists in the state who own high-polluting vehicles.

6 SEC. 2. Section 44003 of the Health and Safety Code
7 is amended to read:

8 44003. (a) (1) An enhanced motor vehicle
9 inspection and maintenance program is established in
10 each urbanized area of the state, any part of which is
11 classified by the Environmental Protection Agency as a
12 serious, severe, or extreme nonattainment area for ozone
13 or a moderate or serious nonattainment area for carbon
14 monoxide with a design value greater than 12.7 ppm, and
15 in other areas of the state as provided in this chapter.

16 (2) The enhanced motor vehicle inspection and
17 maintenance program established pursuant to paragraph
18 (1) shall be assessed jointly by the department and the
19 state board periodically to determine whether changes in
20 the program may be warranted. On or before January 1,
21 2003, the department and the state board shall jointly

1 issue a report to the Legislature based on those periodic
2 assessments, recommending any modifications to the
3 enhanced program to improve its operations and lessen
4 its impact on consumers while still achieving the
5 necessary emission reductions to attain air quality
6 standards.

7 (3) A basic vehicle inspection and maintenance
8 program shall be continued in all other areas of the state
9 where a program was in existence under this chapter as
10 of the effective date of this paragraph.

11 (b) The department may prescribe different test
12 procedures and equipment requirements for those areas
13 described in subdivision (a). Program components shall
14 be operated in all program areas unless otherwise
15 indicated, as determined by the department. In those
16 areas where the biennial program is not implemented
17 and smog check inspections are required to complete the
18 requirements set forth in Sections 4000.1 and 4000.2 of the
19 Vehicle Code, program elements that apply in basic
20 areas, including test equipment requirements for smog
21 check stations, shall apply.

22 (c) (1) Districts classified as attainment areas may
23 request the department to implement all or part of the
24 program elements defined in this chapter. However, the
25 department shall not implement the program established
26 by Section 44010.5 in any area other than an urbanized
27 area, any part of which is classified by the Environmental
28 Protection Agency as a serious, severe, or extreme
29 nonattainment area for ozone or a moderate or serious
30 nonattainment area for carbon monoxide with a design
31 value greater than 12.7 ppm.

32 (2) Districts that include areas classified as basic
33 program nonattainment areas pursuant to subdivision (a)
34 may, except as provided in paragraph (1), request the
35 implementation in those areas of test procedures and
36 equipment required for enhanced program areas and any
37 other program requirement specified for enhanced
38 program areas.

39 SEC. 3. *Section 44021 of the Health and Safety Code*
40 *is amended to read:*

1 44021. (a) (1) ~~A review committee~~ *The Inspection*
2 *and Maintenance Review Committee* is hereby created
3 to analyze the effect of the improved inspection and
4 maintenance program established by ~~the 1994~~
5 ~~amendments to~~ this chapter on motor vehicle emissions
6 and air quality. The functions of the review committee
7 shall be advisory in nature and primarily pertain to the
8 gathering, analysis, and evaluation of information.

9 (2) The members of the review committee shall
10 receive no compensation, but shall be reimbursed by the
11 department for their reasonable expenses in performing
12 committee duties. The state board and the department
13 shall provide the review committee with any necessary
14 technical and clerical support in its evaluation and study.

15 (3) (A) The review committee shall consist of 13
16 members, nine to be appointed by the Governor, two by
17 the Senate Committee on Rules, and two by the Speaker
18 of the Assembly. All members shall be appointed to
19 four-year terms, and the Governor shall appoint from
20 among his or her appointees the chairperson of the
21 review committee.

22 (B) The appointees of the Governor shall include an
23 air pollution control officer from an enhanced program
24 nonattainment area, three public members, an expert in
25 air quality, an economist, a social scientist, a
26 representative of the inspection and maintenance
27 industry, and a representative of stationary source
28 emissions organizations.

29 (C) The appointees of the Senate Committee on Rules
30 shall include an environmental member with expertise in
31 air quality, and a representative from the inspection and
32 maintenance industry.

33 (D) The appointees of the Speaker of the Assembly
34 shall include an environmental member with expertise in
35 air quality, and a representative of a local law
36 enforcement agency charged with prosecuting violations
37 of this chapter in an enhanced program nonattainment
38 area.

39 (4) In preparing its evaluations of program
40 effectiveness as provided in paragraph (1), the review

1 committee shall consult with the Department of the
2 California Highway Patrol, the Department of Motor
3 Vehicles, and any other appropriate agencies, as well as
4 the department and the state board, shall schedule and
5 conduct periodic meetings in the performance of its
6 duties, and shall meet and consult with local, state, and
7 federal officials involved in the evaluation of motor
8 vehicle inspection and maintenance programs. At the
9 request of the committee, the department or the state
10 board may, on behalf of the committee, contract with
11 independent entities to assist in the committee's
12 evaluations.

13 (b) The review committee shall submit periodic
14 written reports to the Legislature and the Governor on
15 the performance of the program and make
16 recommendations on program improvements at least
17 every 12 months. The review committee's reports shall
18 quantify the reduction in emissions and improvement in
19 air quality attributed to the program. Any reports, other
20 than those required by this section, that the review
21 committee is required to provide pursuant to this chapter
22 shall also be transmitted to the Secretary for
23 Environmental Protection and the Secretary for State
24 and Consumer Services.

25 (c) The review committee shall work closely with all
26 interested parties in preparing the information required
27 by subdivisions (a) and (b) *and shall consider the reports*
28 *provided pursuant to subdivision (e)*. The review
29 committee shall hold at least one public hearing on its
30 findings and recommendations prior to submitting its
31 reports. The reports shall include statutory language to
32 implement its recommendations, and shall recommend
33 the timeframe for making any changes to the program.
34 The review committee shall seek comments from the
35 department, the Department of Motor Vehicles, the
36 Department of the California Highway Patrol, and the
37 state board prior to submitting its reports, and those
38 comments shall be published as an appendix to the report.



1 (d) The review committee shall participate in the
2 demonstration program authorized by Section 44081.6, as
3 provided by that section.

4 (e) *The state board, in cooperation with the*
5 *department, shall periodically submit reports to the*
6 *review committee. The reports shall include an*
7 *assessment of the impact on emissions of continuing the*
8 *exemption from inspection of motor vehicles newer than*
9 *five years old; a comparison of the actual mass emission*
10 *reductions being achieved by the enhanced program to*
11 *those required by the State Implementation Plan; and*
12 *recommendations to improve the effectiveness and*
13 *cost-effectiveness of the program, including specific*
14 *recommendations addressing any discrepancy between*
15 *emissions achieved and those in the State*
16 *Implementation Plan. The first report shall be submitted*
17 *not later than January 1, 2000, and reports shall be*
18 *submitted triennially thereafter. In preparing the*
19 *reports, the state board shall use data collected during*
20 *inspections and repair, and data collected using roadside*
21 *measurements, and may conduct additional testing, as*
22 *determined to be necessary, to accurately quantify the*
23 *mass emissions reduced.*

24 SEC. 4. Section 44024.5 is added to the Health and
25 Safety Code, to read:

26 44024.5. (a) The department shall compile and
27 maintain statistical and emissions profiles of motor
28 vehicles that are subject to the motor vehicle inspection
29 program. The department may use data from any source,
30 including remote sensing data and other motor vehicle
31 inspection program data, to develop and confirm the
32 validity of the profiles.

33 (b) The department, in cooperation with the state
34 board, shall perform periodic analyses of the statistical
35 and emissions profiles created pursuant to subdivision
36 (a). The department and the state board, in consultation
37 with the Inspection and Maintenance Review
38 Committee, may determine that, in addition to the
39 vehicles excepted pursuant to Section 44011, certain
40 other motor vehicles may be excepted from the biennial

1 certification requirements of this chapter without
2 significantly compromising the emission reduction
3 objectives set forth in the State Implementation Plan
4 (SIP).

5 (c) The department may conduct a pilot program to
6 except from the biennial certification requirement those
7 vehicles that may be jointly determined by the
8 department and the state board, after consultation with
9 the Inspection and Maintenance Review Committee, to
10 warrant exception. The department shall provide written
11 notification to the Legislature specifying the number of
12 vehicles to be exempted as well as the geographic location
13 and duration of the pilot program not less than 30 days
14 prior to the implementation of the pilot program. The
15 department shall submit the results of the pilot program
16 to the state board and the Inspection and Maintenance
17 Review Committee for review. Subject to the approval of
18 the Environmental Protection Agency as an amendment
19 to the SIP, the department may establish the exception
20 program as a permanent program.

21 (d) For vehicles four model years old or less, the
22 department shall use test data generated pursuant to
23 Section 44014.7 to develop statistical and emissions
24 profiles. The department may use data from any source,
25 including remote sensing data, warranty repair and recall
26 data, and other motor vehicle inspection program data,
27 to develop and confirm the validity of the data. If the
28 department and state board jointly determine that the
29 emissions from a class of motor vehicles would potentially
30 compromise the emission reduction objectives set forth in
31 the SIP, the state board shall consider appropriate
32 corrective action, including, but not limited to, recall
33 pursuant to Section 43105.

34 ~~SEC. 4.~~

35 *SEC. 5.* Section 44037.1 of the Health and Safety Code
36 is amended to read:

37 44037.1. (a) On or before January 1, 1995, the
38 department shall design and establish the equipment
39 necessary to operate a centralized computer data base



1 and computer network that is readily accessible by all
2 licensed smog check technicians on a real time basis.

3 (b) The centralized computer data base and network
4 shall be designed with all of the following capabilities:

5 (1) To provide smog check technicians with
6 immediate access to vehicle-specific information
7 regarding the location of all emission control equipment,
8 pattern failure data, and other vehicle-specific technical
9 information relevant to the efficient identification,
10 diagnosis, and repair of emission problems.

11 (2) To provide smog check technicians and the
12 department with information as to the date and result of
13 prior smog check tests performed on each vehicle to
14 discourage vehicle owners from shopping for certificates
15 of compliance and to permit the department to identify
16 smog check stations for further investigation as potential
17 violators of this chapter.

18 (3) To provide the department with data on the failure
19 rates and repair effectiveness for vehicles of each make
20 and ~~model-year~~ *model year* on a statewide basis, and by
21 smog check station and technician, to facilitate
22 identification of smog check stations and technicians as
23 potential violators of this chapter.

24 (4) Upon a determination that a smog check station or
25 technician has engaged in a pattern of conduct violating
26 this chapter, or that a vehicle failed one or more emissions
27 tests before obtaining a certificate of compliance, to
28 provide the information necessary to identify and contact
29 vehicle owners who obtained certificates from the station
30 or technician, or may have obtained certificates of
31 compliance in violation of this chapter, for purposes of
32 requiring the retesting of their vehicles.

33 (5) To be compatible with the eventual transition to a
34 fully computerized smog certification program that will
35 not require the use of printed certificates as evidence of
36 compliance.

37 (6) To be compatible with bar code scanning of
38 vehicles as provided in Section 44041.

(7) To permit ongoing entry of information from each smog check station into the centralized data base to enlarge and improve the data base on a continuous basis.

(8) To be compatible with the department's recordkeeping and compilation requirements established by Section 44037.

(9) To meet the needs of a remote-sensing program to identify gross polluters, as specified by the department.

(10) To meet any other needs specified by the department to enhance the benefits of the program through the storage of vehicle-specific information, such as that pertaining to voluntary repair and assistance and retirement programs and to the referee station program.

(c) After January 1, 1995, each smog check station shall transmit vehicle data emission test results to the department's centralized data base. Each smog check station shall also transmit vehicle data and emission measurements made before and after repair. The department shall establish, by regulation, the form, manner, and frequency of the data transmittals.

~~SEC. 5.~~

SEC. 6. Section 44060 of the Health and Safety Code is amended to read:

44060. (a) The department shall prescribe the form of the certificate of compliance or noncompliance ~~and~~ ~~repair cost waiver, repair cost waivers, and economic hardship extensions.~~

(b) The certificates ~~and repair cost waivers, repair cost waivers, and economic hardship extensions~~ shall be in the form of an electronic entry filed with the department, the Department of Motor Vehicles, and any other person designated by the department. The department shall ensure that the motor vehicle owner or operator is provided with a written report, signed by the licensed technician who performed the inspection, of any test performed by a smog check station, including a pass or fail indication, and written confirmation of the issuance of the certificate.

(c) (1) The department shall charge a fee to a smog check station, including a test-only station, and a station

1 providing referee functions, for a motor vehicle
2 inspected at that station that meets the requirements of
3 this chapter and is issued a certificate of compliance, a
4 certificate of noncompliance, ~~or repair cost waiver~~ *repair*
5 *cost waiver, or economic hardship extension.*

6 (2) The fee charged pursuant to paragraph (1) shall be
7 calculated to recover the costs of the department and any
8 other state agency directly involved in the
9 implementation, administration, or enforcement of the
10 motor vehicle inspection and maintenance program, and
11 shall not exceed the amount reasonably necessary to fund
12 the operation of the program, including all
13 responsibilities, requirements, and obligations imposed
14 upon the department or any of those state agencies by this
15 chapter, that are not otherwise recoverable by fees
16 received pursuant to Section 44034.

17 (3) Except for adjustments to reflect changes in the
18 Consumer Price Index, as published by the United States
19 Bureau of Labor Statistics, the fee for each certificate,
20 waiver, or extension shall not exceed seven dollars (\$7).

21 (4) Fees collected by the department pursuant to this
22 subdivision shall be deposited in the Vehicle Inspection
23 and Repair Fund. It is the intent of the Legislature that
24 a prudent surplus be maintained in the Vehicle
25 Inspection and Repair Fund. If the surplus exceeds the
26 reasonable costs of administration of the programs
27 specified in this chapter and in Chapter 20.3
28 (commencing with Section 9880) of Division 3 of the
29 Business and Professions Code, the department shall, by
30 regulation, prescribe a lower fee for the certificates ~~and~~
31 ~~waivers~~, *waivers, and extensions.*

32 (d) (1) Motor vehicles exempted under paragraph
33 (4) of subdivision (a) of Section 44011 shall be subject to
34 an annual smog abatement fee of ~~five dollars (\$5)~~ *four*
35 *dollars (\$4)*. Payment of this fee shall be made to the
36 Department of Motor Vehicles at the time of registration
37 of the motor vehicle.

38 (2) Fees collected pursuant to this subdivision shall be
39 deposited on a daily basis into the Vehicle Inspection and
40 Repair Fund.

(e) The sale or transfer of the certificate ~~or waiver,~~
~~waiver, or extension~~ by a licensed smog check station or
test-only station to any other licensed smog check station
or to any other person, and the purchase or acquisition of
the certificate, waiver, or extension, by any person, other
than from the department, the department's designee, or
pursuant to a vehicle's inspection or repair conducted
pursuant to this chapter, is prohibited.

(f) Following implementation of the electronic entry
certificate under subdivision (b), the department may
require the modification of the analyzers and other
equipment required at smog check stations to prevent
the entry of a certificate that has not been issued or
validated through prepayment of the fee authorized by
subdivision (c).

(g) The fee charged by licensed smog check stations
to consumers for a certificate ~~or waiver,~~ *waiver, or*
extension shall be the same amount that is charged by the
department.

~~SEC. 6.—~~

SEC. 7. Section 44081 of the Health and Safety Code
is amended to read:

44081. (a) (1) The department, in cooperation with
the state board, shall institute procedures for auditing the
emissions of vehicles while actually being driven on the
streets and highways of the state. The department may
undertake those procedures itself or seek a qualified
vendor of these services. The primary object of the
procedures shall be the detection of gross polluters. The
procedures shall consist of techniques and technologies
determined to be effective for that purpose by the
department, including, but not limited to, remote
sensing. The procedures may include pullovers for
roadside emissions testing and inspection. The
department shall consider the recommendations of the
review committee based on the outcome of the pilot
demonstration program conducted pursuant to Section
44081.6.

1 (2) The department may additionally use other
2 methods to identify gross polluting vehicles for
3 out-of-cycle testing and repair.

4 (b) The department shall, by regulation, establish a
5 program for the out-of-cycle testing and repair of motor
6 vehicles found, through roadside auditing, to be emitting
7 at levels that exceed specified standards. The program
8 shall include all of the following elements:

9 (1) Emission standards, and test and inspection
10 procedures and regulations, adopted in coordination with
11 the state board, applicable to vehicles tested during
12 roadside auditing. Emission standards for issuance of a
13 notice of noncompliance to a gross polluter shall be
14 designed to maximize the identification of vehicles with
15 substantial excess emissions.

16 (2) Procedures for issuing notices of noncompliance to
17 owners of gross polluters, either at the time of the
18 roadside audit, or subsequently by certified mail, or by
19 obtaining a certificate of mailing as evidence of service,
20 using technologies for recording license plate numbers.
21 The notice of noncompliance shall provide that, unless
22 the vehicle is brought to a designated test-only facility, or
23 a test-and-repair station that is both licensed and certified
24 pursuant to ~~Section~~ *Sections* 44014 and 44014.2 and is
25 participating in the pilot program pursuant to
26 subparagraph (B) of paragraph (2) of subdivision (g) of
27 Section 44014.5, for emissions testing within 30 days, the
28 owner will be required to pay an administrative fee of five
29 hundred dollars (\$500) to be collected by the
30 Department of Motor Vehicles at the next annual
31 registration renewal or the next change of ownership of
32 the vehicle, whichever occurs first. Commencing on the
33 31st day after issuance of the notice of noncompliance, the
34 fee shall accrue at the rate of five dollars (\$5) per day up
35 to the five hundred dollars (\$500) maximum.

36 (3) Procedures for the testing of vehicles identified as
37 gross polluters by a designated test-only facility, or a
38 test-and-repair station that is both licensed and certified
39 pursuant to ~~Section~~ *Sections* 44014 and 44014.2 and is
40 participating in the pilot program pursuant to

1 subparagraph (B) of paragraph (2) of subdivision (g) of
2 Section 44014.5, to confirm that the vehicle exceeds the
3 minimum emission standard for gross polluters set by the
4 department.

5 (4) Procedures requiring owners of vehicles
6 confirmed as gross polluters to have the vehicle repaired,
7 resubmitted for testing, and obtain a certificate of
8 compliance from a designated test-only facility or
9 removed from service as attested by a certificate of
10 nonoperation from the Department of Motor Vehicles
11 within 30 days or be required to pay an administrative fee
12 of not more than five hundred dollars (\$500), to be
13 collected by the Department of Motor Vehicles at the
14 next annual registration renewal or the next change of
15 ownership, whichever occurs first. Commencing on the
16 31st day after issuance of the notice of noncompliance, the
17 fee shall accrue at the rate of five dollars (\$5) per day up
18 to the five hundred dollars (\$500) maximum. The
19 registration of a vehicle shall not be issued or renewed if
20 that vehicle has been identified as a gross polluter and has
21 not been issued a certificate of compliance. Except as
22 provided in subdivision (b) of Section 9250.18 of the
23 Vehicle Code, any revenues collected by the Department
24 of Motor Vehicles pursuant to this subdivision and Section
25 9250.18 of the Vehicle Code shall be deposited in the
26 Vehicle Inspection and Repair Fund. If the ownership of
27 the vehicle is transferred, the administrative fee provided
28 for in this subdivision shall be waived if the vehicle is
29 brought into compliance.

30 (5) A procedure for notifying the Department of
31 Motor Vehicles of notices of noncompliance issued, so
32 that the Department of Motor Vehicles may provide
33 effective collection of the administrative fee. The
34 Department of Motor Vehicles shall cooperate with, and
35 implement the requirements of, the department in that
36 regard.

37 (c) The department may adopt any other regulations
38 necessary for the effective implementation of this section,
39 as determined by the department.

1 (d) Upon the request of the department, the
2 Department of the California Highway Patrol shall
3 provide assistance in conducting roadside auditing, to
4 consist of (1) the stopping of vehicles and traffic
5 management, and (2) the issuance of notices of
6 noncompliance to gross polluters. The department shall
7 reimburse the Department of the California Highway
8 Patrol for its costs of providing those services. The
9 Department of Transportation and affected local
10 agencies shall provide necessary assistance and
11 cooperation to the department in the operation of the
12 program.

13 (e) There shall be no repair cost limit imposed
14 pursuant to Section 44017 for any repairs that are
15 required to be made under the roadside auditing
16 program, except as provided in subdivision (c) of Section
17 44017.

18 (f) This section does not apply to vehicles operating
19 under a valid repair cost waiver *or economic hardship*
20 *extension* issued pursuant to Section 44015.

21 ~~SEC. 7.~~

22 *SEC. 8. Section 44091 of the Health and Safety Code*
23 *is amended to read:*

24 44091. (a) The High Polluter Repair or Removal
25 Account is hereby created in the Vehicle Inspection and
26 Repair Fund. All money deposited in the account
27 pursuant to this article and ~~paragraphs (1) and (2) of~~
28 ~~subdivision (b) of Section 4000.7 of the Vehicle~~
29 *subdivision (d) of Section 6262 of the Revenue and*
30 *Taxation Code* shall be available, upon appropriation by
31 the Legislature, to the department and the state board to
32 establish and implement a program for the repair or
33 replacement of high polluters pursuant to ~~this article~~
34 *Section 44062.1* and Article 10 (commencing with Section
35 44100).

36 (b) The department may accept donations or grants of
37 funds from any person for purposes of the program and
38 shall deposit that money in the account. Donations,
39 grants, or other commitments of money to the account
40 may be dedicated for specific purposes consistent with

1 the uses of the account, including, but not limited to,
2 purchasing higher emitting vehicles for the purpose of
3 achieving the emission reductions required by the M-1
4 strategy of the 1994 ~~state implementation plan~~ *State*
5 *Implementation Plan* (SIP).

6 (c) The funds which are available in the account in any
7 fiscal year for a particular area that is subject to an
8 inspection and maintenance program shall be
9 ~~determined by calculating the percentage distributed to~~
10 ~~reflect the number of vehicles registered in that area to~~
11 the total number of vehicles registered in areas that are
12 subject to inspection and maintenance programs. That
13 percentage shall be the percentage of the total funds
14 allocated to the program in that fiscal year which are
15 available for that particular area.

16 (d) During any fiscal year, the ~~percentage of money in~~
17 the account ~~expended for repair assistance, removal and~~
18 ~~related administration costs, shall be set by the~~
19 ~~department and, shall be available for the following~~
20 ~~purposes in the following amounts:~~ *shall be available,*
21 *upon appropriation by the Legislature, for the following*
22 *purposes:*

23 (1) *Assistance in the repair of high polluters pursuant*
24 *to the program established pursuant to Section 44062.1.*

25 (2) *Voluntary accelerated retirement of high*
26 *polluters.*

27 (3) *Rulemaking, vehicle testing, and other technical*
28 *work required to implement and administer the repair*
29 *assistance program established pursuant to Section*
30 *44062.1 and the program described in Article 10*
31 *(commencing with Section 44100).*

32 (e) *An amount of one million dollars (\$1,000,000)*
33 *annually for the 1997–98 fiscal year and the 1998–99 fiscal*
34 *year shall be made available from the account for a*
35 *program to evaluate the emission reduction effectiveness*
36 *of the M-1 strategy of the 1994 SIP.*

37 (f) *All remaining amounts in the account shall be*
38 *available to the program of repair assistance established*
39 *pursuant to Section 44062.1.*

~~(1) Until the emission reductions required by the M-1 strategy of the 1994 SIP are achieved, 50 percent of the funds deposited in the account pursuant to paragraphs (1) and (2) of subdivision (b) of Section 4000.7 of the Vehicle Code that are allocated to the south coast district area pursuant to subdivision (c), plus all other money deposited in the account and dedicated to achieving the emission reductions required by the M-1 strategy of the 1994 SIP, shall be available to the state board for the purposes described in subdivision (b) of Section 44104. All emission reductions achieved by using the funds described in this paragraph shall be credited to the M-1 strategy. Funds allocated for purposes of this paragraph that are unused in any fiscal year shall be carried over to achieve the M-1 emission reduction objectives in subsequent years.~~

~~(2) Funds appropriated pursuant to subdivision (a) of Section 44104 shall be available to the state board for the purpose of performing the rulemaking, vehicle testing, and other technical work required to implement the program described in Article 10 (commencing with Section 44100).~~

~~(3) The balance of this portion of the account shall be available to the department for repairing or removing high-emitting vehicles, and shall be apportioned based on the relative cost-effectiveness of repair or removal, as determined by the department.~~

~~(e)~~

~~(g) In no case shall the funding available in any subsequent fiscal year to the department for repairing or removing high-emitting vehicles under the inspection and maintenance program be less than the amount made available from the Vehicle Inspection and Repair Fund for that purpose in the 1995-96 fiscal year.~~

SEC. 9. Section 44091.1 is added to the Health and Safety Code, to read:

44091.1. On or after July 1, 1998, in the event that the smog impact fee imposed pursuant to Section 6262 of the Revenue and Taxation Code is ruled unconstitutional by an appellate court or the California Supreme Court, or if

1 *the state is in any manner prevented by either of these*
2 *courts from imposing or collecting the fee, all of the*
3 *following actions shall immediately take place:*

4 *(a) The fee specified in paragraph (1) of subdivision*
5 *(d) of Section 44060 shall be six dollars (\$6). The revenues*
6 *from that fee shall be allocated as follows:*

7 *(1) Except as provided for in paragraph (2), the*
8 *revenue generated by two dollars (\$2) of the fee shall be*
9 *deposited in the account created by Section 44091, while*
10 *the revenue generated by the remaining four dollars (\$4)*
11 *shall continue to be deposited in the Vehicle Inspection*
12 *and Repair Fund.*

13 *(2) All revenue generated by the fee imposed at first*
14 *registration of a motor vehicle exempted under*
15 *paragraph (4) of subdivision (a) of Section 44011 shall be*
16 *deposited in the account created by Section 44091.*

17 *(b) (1) Except as specified in paragraph (2), this*
18 *section shall remain in effect only until January 1, 2005,*
19 *and as of that date shall become inoperative, unless a later*
20 *enacted statute, that is enacted before June 30, 2004,*
21 *deletes or extends that date.*

22 *(2) With respect to motor vehicles registered in the*
23 *south coast district, this section shall remain in effect until*
24 *January 1, 2010, and as of that date is repealed, unless a*
25 *later enacted statute, that is enacted before June 30, 2009,*
26 *deletes or extends that date.*

27 *SEC. 10. Section 44101 of the Health and Safety Code*
28 *is amended to read:*

29 *44101. Not later than ~~June 30, 1997~~ December 31,*
30 *1998, the state board shall adopt, by regulation, a*
31 *statewide program to commence in ~~1997~~ 1999 that does*
32 *all of the following:*

33 *(a) Provides for the creation, exchange, use, and*
34 *retirement of light-duty vehicle mobile source emission*
35 *reduction credits. The credits shall be fungible and*
36 *exchangeable in the marketplace, and shall reflect the*
37 *actual emissions of the vehicles that are retired or*
38 *otherwise disposed of, by measurement, appropriate*
39 *sampling, or correlations developed from appropriate*
40 *sampling. The numerical value of credits may be constant*

1 over a defined lifetime, or may decline with age
2 measured from the time of origination of the credits. In
3 all cases, the numerical value of the credits shall reflect
4 the useful life expectancies and the projected in-use
5 emissions of the retired vehicles in a manner consistent
6 with the assumptions used in determining the emissions
7 inventory. The credits shall be fully recognized by the
8 United States Environmental Protection Agency, the
9 state board, and the districts.

10 (b) Sets out the criteria for retiring or otherwise
11 disposing of high-emitting vehicles purchased for this
12 program.

13 (c) Authorizes the issuance of those credits to private
14 entities that purchase and properly retire high-emitting
15 vehicles.

16 (d) Authorizes the resale of those credits to public or
17 private entities to be used to achieve the emission
18 reduction requirements of the 1994 state implementation
19 plan, meet the requirements of the inspection and
20 maintenance program, satisfy compliance with other
21 emission reduction mandates, as determined by the
22 district or the state board, create local growth allowances,
23 or satisfy new or modified source emission offset
24 requirements. Nothing in this article limits a district's
25 authority to apply emission discount factors pursuant to
26 district rules that regulate emissions banks, trades, or
27 offsets.

28 (e) Provides for the retirement of those credits when
29 used.

30 (f) Includes accounting procedures to credit emissions
31 reductions achieved through vehicle scrappage to the
32 M-1 strategy of the 1994 SIP and the inspection and
33 maintenance program.

34 (g) Contains a program plan pursuant to Section
35 44104.5.

36 (h) Satisfies the attributes described in subdivision (e)
37 of Section 44100.

38 *SEC. 11.* Section 6262 of the Revenue and Taxation
39 Code is amended to read:

1 6262. (a) In addition to any other fees and taxes
2 required to be paid by the Vehicle Code and this code at
3 the time of the registration of a motor vehicle, as defined
4 in Section 415 of the Vehicle Code, a person making
5 application to register a 1975 or subsequent model year
6 gasoline-powered motor vehicle or a 1980 or subsequent
7 model year diesel-powered motor vehicle which is
8 subject to the requirements of Section 4000.2 of the
9 Vehicle Code shall pay to the Department of Motor
10 Vehicles a motor vehicle smog impact fee of three
11 hundred dollars (\$300) for any such motor vehicle which,
12 prior to the date of application, was last registered outside
13 this state, unless the motor vehicle has been certified
14 pursuant to Chapter 2 (commencing with Section 43100)
15 of Part 5 of Division 26 of the Health and Safety Code *to*
16 *meet the California carbon monoxide (CO),*
17 *hydrocarbon (HC), and oxides of nitrogen (NO_x)*
18 *emission standards for the applicable model year, and the*
19 *California emission standard for that vehicle in that*
20 *model year is more stringent than the federal emission*
21 *standards for CO, HC, or NO_x for that vehicle in that*
22 *model year.* This subdivision does not authorize the
23 registration of motor vehicles that are prohibited from
24 being brought into this state pursuant to Article 1.5
25 (commencing with Section 43150) of Chapter 2 of Part 5
26 of Division 26 of the Health and Safety Code.

27 (b) The determination that a vehicle is subject to the
28 fee imposed pursuant to this section shall be made by the
29 Department of Motor Vehicles, or its designee.

30 (c) (1) For purposes of this chapter, if a motor vehicle
31 does not have affixed a vehicle emission control label
32 from which the Department of Motor Vehicles may
33 determine whether the vehicle is California-certified, the
34 vehicle shall be presumed not to be California-certified
35 unless confirmed to be by the manufacturer.

36 (2) Any manufacturer of light-duty motor vehicles
37 doing business in California shall provide information,
38 within 30 days from the date of the receipt of a request
39 from the Department of Motor Vehicles, stating whether
40 a vehicle, identified in the request by the vehicle

1 identification number (VIN) assigned by the
2 manufacturer in accordance with federal law, has been
3 certified for sale in California pursuant to Chapter 2
4 (commencing with Section 43100) of Part 5 of Division 26
5 of the Health and Safety Code.

6 (3) For purposes of this subdivision, “vehicle emission
7 control label” means the permanent label that vehicle
8 manufacturers are required to affix to motor vehicles
9 certified by the State Air Resources Board for sale in
10 California in accordance with Chapter 2 (commencing
11 with Section 43100) of Part 5 of Division 26 of the Health
12 and Safety Code and pursuant to Sections 1965 and 1965.5
13 of Title 13 of the California Code of Regulations.

14 (d) After deduction of all costs incurred by the
15 department in carrying out this section that have been
16 approved by the Department of Finance, the revenues
17 received pursuant to this section shall be deposited in the
18 *General Fund through June 30, 1998. On and after July*
19 *1, 1998, those revenues shall be deposited in the High*
20 *Polluter Repair or Removal Account in the Vehicle*
21 *Inspection and Repair Fund created pursuant to*
22 *subdivision (a) of Section 44091 of the Health and Safety*
23 *Code and shall be available solely for the purpose of*
24 *funding the low-income repair assistance program*
25 *established pursuant to Section 44062.1 of the Health and*
26 *Safety Code and the voluntary accelerated retirement of*
27 *high-emission motor vehicles as specified in subdivisions*
28 *(d) and (f) of Section 44091 of the Health and Safety*
29 *Code.*

30 (e) This section does not apply to any of the following:

31 (1) A commercial vehicle, as defined in Section 260 of
32 the Vehicle Code, with an unladen weight in excess of
33 6,000 pounds.

34 (2) Any vehicle owned by a person who, pursuant to
35 military orders or within three years following the date of
36 discharge from or release from active duty in the armed
37 forces of the United States, enters California for the
38 purpose of establishing or reestablishing residence or
39 accepting gainful employment, if the vehicle was

1 acquired by the owner in a foreign jurisdiction where
2 those military orders required the owner's presence.

3 (3) Any vehicle that is required to be registered on or
4 after January 1, 1993, that has been subject to the fee
5 imposed by this section within the prior four years, if the
6 emission control devices and systems were not modified
7 out of state subsequent to the previous payment of that
8 fee.

9 (f) Notwithstanding any other provision of law, the fee
10 imposed pursuant to subdivision (a) is imposed pursuant
11 to the Sales and Use Tax Law.

12 ~~SEC. 8.—~~

13 ~~SEC. 12.~~ Section 4000.7 of the Vehicle Code is
14 repealed.

15 ~~SEC. 9. (a) It is the intent of the Legislature to~~
16 ~~replace the existing vehicle inspection and maintenance~~
17 ~~program prescribed in Chapter 5 (commencing with~~
18 ~~Section 44000) of Part 5 of Division 26 of the Health and~~
19 ~~Safety Code on or before January 1, 2005.~~

20 ~~(b) On or before January 1, 2003, the State Air~~
21 ~~Resources Board shall design a new proposed program to~~
22 ~~replace the existing vehicle inspection and maintenance~~
23 ~~program and submit to the Legislature a report on that~~
24 ~~new program.~~

25 ~~SEC. 10.—~~

26 ~~SEC. 13.~~ This act shall become operative only if both
27 Assembly Bill 57 and Assembly Bill 1492 of the 1997-98
28 Regular Session of the Legislature are enacted and take
29 effect on or before January 1, 1998.

